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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 20 1994

OFFICE OF  
WATER

MEMORANDUM

SUBJECT: Award of Grants for Special Projects Authorized by the  
1995 Appropriations Act (P.L. 103-327)

FROM: *for* Michael B. Cook, Director  
Office of Wastewater Management (4201)

*John P. Lehman*

TO: Municipal Construction Program Managers  
Regions I - X

Purpose

The purpose of this memorandum is to provide information and guidance on how the Agency will administer grants for the 53 water infrastructure projects authorized by the FY 1995 Appropriations Act for VA, HUD, and Independent Agencies.

Background

The FY 1995 Appropriations Act (P.L. 103-327) provides that, if clean water authorizing legislation is not enacted by November 1, 1994, \$781.8 million is appropriated for grants for construction of wastewater treatment facilities in accordance with the Conference Report. The Conference Report (H.R. Rep. No. 715, 103rd Cong., 2d Sess. at 39-43 (1994)) cites 45 specific projects that are to be funded.

The FY 1995 Appropriations Act also includes language providing that \$500 million appropriated in FY 1994 for needy cities shall be available for similar grants after September 30, 1994, if clean water authorizing legislation has not been enacted. The Conference Report (ibid.) cites 8 specific projects to be funded with these funds.

Attachment A provides a region-by-region listing of the 53 projects. The grants will be awarded at the Regional level. We are developing the necessary delegation of authority. After today, we intend to refer inquiries about any of the special water infrastructure grants authorized by the FY 1995 Appropriations Act to you.



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## Guidance

The authority for making most of these grants is the FY 1995 Appropriations Act. Grants for projects which the Conference Report designates as "demonstration projects" may be awarded under the authority of § 104(b)(3) of the Clean Water Act (CWA). Title II of the CWA should not be used as the authority for any of these grants. The general grant regulations at 40 CFR Part 31 apply to these grants. In addition, 40 CFR Part 40 applies to the demonstration projects. Grantees should use Standard Form 424 to apply for the grants.

The Davis-Bacon Act does not apply to projects awarded under the authority of the Appropriations Act because the Appropriations Act contained no language specifically making it apply. Davis-Bacon does apply to projects funded under the authority of § 104(b)(3) of the CWA. The National Environmental Policy Act does not apply to demonstration projects funded under § 104(b)(3), CWA, but does apply to projects funded under the authority of the Appropriations Act. Lists of other applicable laws, regulations, and Executive Orders may be found in Appendix F of *Initial Guidance for State Revolving Funds* issued in January 1988 and Module No. 2 of the E.P.A. Assistance Project Officers Training Course. Copies of both documents are available in each Regional office.

The Appropriation Act makes these funds available "notwithstanding any other provision of law, ...". This means that projects must comply with applicable laws and regulations, but if strict compliance with those laws and regulations would preclude award of the grant, the Appropriations Act takes precedence, and you must award the grant.

To avoid confusion associated with applying requirements that differ from Title II or Title VI, you should award new grants rather than amend previously awarded grants.

Due to the specific language in the Appropriations Act, grants for the 45 projects using FY 1995 funds may not be awarded prior to November 2, 1994.

If you have not already done so, you or your staff should initiate discussions with the grantee agency mentioned in the Committee Report to develop a detailed scope of work and clear project objectives for the project (or projects) that meet the general description provided in the Committee Report. For projects where no specific grantee agency is mentioned, we may need to investigate further as to the intended applicant.

Where general agreement can be reached as to the applicant agencies and the scope of projects, you should be able to proceed. However, in some cases, agreement may not be as readily achieved. We are always available to seek additional clarification, guidance, or concurrence from the Appropriations Committee if you need more assistance.

You should invite the State agency to participate as much as possible in the pre-application, application review, and grant administration process. However, the States may not use 205(g) funds for this purpose because grants for the "special projects" authorized by the FY 1995 Appropriations act are not construction grants issued under § 201 of the Clean Water Act. States may use funds awarded under §106 of the Clean Water Act for their activities associated with these special grants provided §106 Program officials agree. We are exploring other possible sources of, or mechanisms for, funding State activities associated with these special projects.

You have a fiduciary responsibility to review the grant application to determine: that the scope of work is clearly defined and is within the general description provided in the Conference Report; that there is a clearly-stated environmental or public health objective; that there is a reasonable chance that the project will achieve its objective(s); and that costs are reasonable, necessary and allocable to the project. You may impose reasonable requirements through grant conditions if you feel it necessary. Grant awards should be made expeditiously, but I expect you to review the applications carefully and award the grant only after you are satisfied that it is prudent to do so.

The Conference Report states: "The conferees are in agreement that the agency should work with the grant recipients on appropriate cost-share arrangements. It is the conferees' expectation that the agency will apply the 45 percent local cost share requirement under Title II of the Clean Water Act in most circumstances." Exceptions to a 45% local share must be approved by EPA Headquarters. When there is substantial justification for less than a 45% match, you should submit your request for exception to the Director, Office of Wastewater Management. Please send a copy of the request to the EPA Comptroller (Mail Code 3301).

The Clean Water Act (§ 603(h)) and 40 CFR 35.3125(b)(1) preclude the use of loans from a State Revolving Fund as part of the "match" for these special grants. However, pursuant to 40 CFR 35.3125(b)(2), assistance other than a loan from the SRF may be used. Federal funds from other programs may be used as all or part of the match only if the statute authorizing those programs specifically allows the funds to be used as a match for other Federal grants.

While the dollar amounts for these grants are explicitly stated in the Conference Report, you should award a grant only for a project that has a clearly-defined scope of work and objective and for which there is a local match of at least 45% unless an exception has been granted. You need not award all of the funds in a single grant; you may award a grant now and amend it, or award other new grants, in the future to complete the work described in the Conference Report. If funds remain after all viable projects have been funded, the funds would remain in our account.

The project scope of work may, but need not, include planning and design activities and/or the cost of land. Land need not be an "integral part of the treatment process" as in construction grants. However, all elements included within the scope of work must conform to the requirements of 40 CFR Part 31. This means: if planning and design is included, procurement of those services and the contracts must comply with the applicable sections of Part 31; if land is included, there will be a Federal interest in the land regardless of when it was purchased and that the purchase must be (must have been) in accordance with applicable sections of Part 31 and other applicable regulations.

You may use available Corps of Engineers resources to assist you in appropriate aspects of these projects. Once you determine the level of participation by the Corps in these projects, you should modify your Corps usage and phaseout plans accordingly and send them to Arnold Speiser in OWM's Municipal Support Division (Mail Code 4204).

If you would like to discuss the content of this memorandum, please call Ed Gross at (202-260-7370).

Attachment

cc: Regional Water Management Division Directors

bcc: Robert Perciasepe (4101)  
Pat Gaskins (1302)  
Terry Grindstaff (3302)  
Mike Quigley (4204)  
Steve Pressman (2378)  
Steve Allbee (4204)  
Ed Gross (4204)

## APPENDIX F

### LIST OF FEDERAL LAWS AND AUTHORITIES

#### ENVIRONMENTAL:

- Archeological and Historic Preservation Act of 1974, PL 93-291
- Clean Air Act, 42 U.S.C. 7506(c)
- Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq.
- Coastal Zone Management Act of 1972, PL 92-583, as amended
- Endangered Species Act 16 U.S.C. 1531, et seq.
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Farmland Protection Policy Act, 7 U.S.C. 4201 et seq.
- Fish and Wildlife Coordination Act, PL 85 -624, as amended
- National Historic Preservation Act of 1966, PL 89-665, as amended
- Safe Drinking Water Act, section 1424(e), PL 92-523, as amended
- Wild and Scenic Rivers Act, PL 90-542, as amended

#### ECONOMIC:

- Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended
- Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

#### SOCIAL LEGISLATION:

- Age Discrimination Act, PL 94-135
- Civil Rights Act of 1964, PL 88-352
- Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act

- Executive Order 11246, Equal Employment Opportunity
- Executive Orders 11625 and 12138, Women's and Minority Business Enterprise
- Rehabilitation Act of 1973, PL 93-112 (including Executive Orders 11914 and 11250)

MISCELLANEOUS AUTHORITY:

- Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646
- Executive Order 12549 - Debarment and Suspension

Attachment A – Page 1 of 5  
SPECIAL PROJECTS AUTHORIZED BY THE FY 1995 APPROPRIATIONS ACT

## REGION I

Amount (millions)		State	Identified Applicant*	Project Description**
Fiscal Year				
1995	1994			
100.0	150.0	MA	Boston	a secondary sewage treatment facility
3.8		MA	Gardner	extension of sewer and water service to areas surrounding Snake and Kendall Ponds
1.5		MA	?	water infrastructure improvements in Fall River
1.5		MA	?	water infrastructure improvements in New Bedford
106.8	150.0			Massachusetts State Total

6.0		ME	Bangor	wastewater treatment improvements relating to sewage sludge management and disposal
6.0		ME	Biddeford	wastewater treatment improvements to upgrade secondary treatment facilities
<b>12.0</b>	<b>0.0</b>			<b>Maine State Total</b>

118.8 150.0

REGION I TOTAL

## REGION II

Amount (millions)		State	Identified Applicant*	Project Description**
Fiscal Year				
1995	1994			
3.2		NJ	Mt. Arlington	wastewater treatment improvements
3.2		NJ	Mt. Pleasant	wastewater treatment improvements
44.3		NJ	Newark	combined sewer overflow construction and sewer segment repair
50.7	0.0			New Jersey State Total

	70.0	NY	City of New York	construction of a wastewater reclamation facility
20.0		NY	Warren County	wastewater treatment improvements
<b>20.0</b>	<b>70.0</b>			<b>New York State Total</b>

70.7 70.0

REGION II TOTAL

- \* Except for the possible deletion of the words "City of" this is a quote from the Appropriations Act/Committee Report. A ? indicates no grantee agency was specified.  
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SPECIAL PROJECTS AUTHORIZED BY THE FY 1995 APPROPRIATIONS ACT

### REGION III

Amount (millions)	Fiscal Year	State	Identified Applicant*	Project Description**
1995	1994			
6.0		MD	Anne Arundel County	Communities of Rose Haven and Holland Point for wastewater treatment improvements

30.0		PA	Lackawana County	wastewater treatment facility in Jermyn and a combined sewer overflow project along the Lackawana River
4.3		PA	?	wastewater improvements in Clearfield County
0.2		PA	?	wastewater improvements in Southern Fulton County
6.5		PA	?	wastewater improvements in Tyrone Borough, Blair County
3.5		PA	?	wastewater improvements in Union Township, Mifflin County
44.5	0.0			Pennsylvania State Total

50.5    0.0

**REGION III TOTAL**

### REGION IV

Amount (millions)	Fiscal Year	State	Identified Applicant*	Project Description**
1995	1994			
1.0		FL	Jacksonville Beach	water, sewer and drainage system improvements and construction
29.9		FL	?	alternative water source projects in Tampa & St. Petersburg, FL
30.9	0.0			Florida State Total

20.0		GA	Columbus	construction of a combined sewer overflow advanced demonstration facility
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3.7		MS	Flowood	construction of the Hogg Creek Interceptor
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54.6    0.0

**REGION IV TOTAL**

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SPECIAL PROJECTS AUTHORIZED BY THE FY 1995 APPROPRIATIONS ACT

## REGION V

Amount (millions)		State	Identified Applicant*	Project Description**
Fiscal Year				
1995	1994			
25.0		IL	MWRDGC	two phase tunnel and reservoir plan
75.0	85.0	MI	?	Rouge River National Wet Weather Demonstration Project
60.0		OH	?	Westerly wastewater treatment plant
160.0	85.0	REGION V TOTAL		

## REGION VI

Amount (millions)		State	Identified Applicant*	Project Description**
Fiscal Year				
1995	1994			
6.0		NM	Bosque Farms	construction of a wastewater treatment facility and distribution lines
	10.0	NM	State of New Mexico	improving wastewater treatment in colonias
12.0		NM	State of New Mexico	wastewater improvements in the South Valley, NM
4.6		NM	?	wastewater treatment improvements in Dona Ana County
3.5		NM	?	wastewater treatment in Bernalillo County
26.1	10.0			New Mexico State Total
8.2		TX	Laredo	improvement and expansion of water and sewer infrastructure
50.0	50.0	TX	State of Texas	improving wastewater treatment in colonias
58.2	50.0			Texas State Total
84.3	60.0	REGION VI TOTAL		

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SPECIAL PROJECTS AUTHORIZED BY THE FY 1995 APPROPRIATIONS ACT

## REGION VII

Amount (millions)	Fiscal Year	State	Identified Applicant*	Project Description**
1995	1994			
37.0		IA	Waterloo	wastewater treatment facility improvements
3.0		KS	Kansas City	a major storm sewer improvement project for the Argentine neighborhood
1.3		KS	Topeka	extension of sanitary sewer lines to low and moderate income neighborhoods
4.3	0			Kansas State Total
5.7		MO	St. Louis	repair and replacement of sewer system
5.0		NE	Freemont	wastewater treatment improvements
6.0		NE	Kearney	wastewater treatment improvements
11.0	0.0			Nebraska State Total
58.0	0.0			REGION VII TOTAL

## REGION VIII

Amount (millions)	Fiscal Year	State	Identified Applicant*	Project Description**
1995	1994			
8.0		UT	Ogden	rehabilitation of water treatment and distribution systems
1.9		UT	?	Jordon River restoration project
9.9	0.0			Utah State Total
9.9	0			REGION VIII TOTAL

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SPECIAL PROJECTS AUTHORIZED BY THE FY 1995 APPROPRIATIONS ACT

## REGION IX

Amount (millions)		State	Identified Applicant*	Project Description**
Fiscal Year				
1995	1994			
47.5		AZ	Nogales	architectural, engineering, and design, and related activities in connection with wastewater facilities in the vicinity of Nogales, AZ, and Mexicali, Mexico, and planning and design of other high priority wastewater facilities in the area of the Mexico border to control wastewater from Mexico.
5.0		AZ	?	regional water quality research project in Pima County
52.5	0.0			Arizona State Total

	50.0	CA	City of Los Angeles	wastewater treatment improvements
0.0	50.0	CA	L.A. Co. San. Districts	?? (no project description provided)
10.0		CA	Mojave Water Agency	groundwater recharge demonstration (Apple Valley, CA)
40.0		CA	San Francisco	Richmond transport control wastewater facility for a comprehensive combined sewer overflow system
2.0		CA	?	Geysers Effluent pipeline and injection project for wastewater disposal in Yolo and Lake Counties
45.5		CA	?	San Diego water reclamation facility
97.5	100.0			California State Total

150.0 100.0

REGION IX TOTAL

## REGION X

Amount		State	Identified Applicant*	Project Description**
(millions)				
Fiscal Year				
1995	1994			
15.0		AK	State of Alaska	wastewater sanitation systems in Native and rural Alaskan villages
10.0		OR	Portland	Columbia Slough revitalization project
	35.0	WA	?	King County Metro (Seattle) combined sewer overflow project

25.0 35.0

REGION X TOTAL

781.8 500.0

NATIONAL TOTAL

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